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10 FILED  
11 STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO JUNE 10 2019  
12 BY Dana Fassida ANALYST

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14 BEFORE THE  
15 MEDICAL BOARD OF CALIFORNIA  
16 DEPARTMENT OF CONSUMER AFFAIRS  
17 STATE OF CALIFORNIA

18 In the Matter of the Accusation Against:

19 Case No. 800-2017-036185

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21 **Grant Barrie Neifeld, M.D.**  
SCPMG Family Medicine Dept  
7060 Clairemont Mesa Blvd  
San Diego, CA 92111

22 ACCUSATION

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24 **Physician's and Surgeon's Certificate**  
No. A 49419,

25 Respondent.

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27 PARTIES

28 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

29 2. On or about April 29, 1991, the Medical Board issued Physician's and Surgeon's Certificate Number A 49419 to Grant Barrie Neifeld, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2021, unless renewed.

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2       3.   Section 2227 of the Code states:

3       4       “(a) A licensee whose matter has been heard by an administrative law judge  
4       of the Medical Quality Hearing Panel as designated in Section 11371 of the  
5       Government Code, or whose default has been entered, and who is found guilty,  
6       or who has entered into a stipulation for disciplinary action with the board, may, in  
7       accordance with the provisions of this chapter:

8       “(1) Have his or her license revoked upon order of the board.

9       10      “(2) Have his or her right to practice suspended for a period not to exceed  
one year upon order of the board.

11      12      “(3) Be placed on probation and be required to pay the costs of probation  
monitoring upon order of the board.

13      14      “(4) Be publicly reprimanded by the board. The public reprimand may  
include a requirement that the licensee complete relevant educational courses approved by  
the board.

16      17      “(5) Have any other action taken in relation to discipline as part of an order  
of probation, as the board or an administrative law judge may deem proper.

18      19      “(b) Any matter heard pursuant to subdivision (a), except for warning letters,  
medical review or advisory conferences, professional competency examinations,  
continuing education activities, and cost reimbursement associated therewith that  
are agreed to with the board and successfully completed by the licensee, or other  
matters made confidential or privileged by existing law, is deemed public, and shall be  
made available to the public by the board pursuant to Section 803.1.”

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1           4. Section 2234 of the Code, states:

2           “The board shall take action against any licensee who is charged with unprofessional  
3           conduct. In addition to other provisions of this article, unprofessional conduct includes, but  
4           is not limited to, the following:

5           “...”

6           “(c) Repeated negligent acts. To be repeated, there must be two or more negligent  
7           acts or omissions. An initial negligent act or omission followed by a separate and distinct  
8           departure from the applicable standard of care shall constitute repeated negligent acts.

9           “(1) An initial negligent diagnosis followed by an act or omission medically  
10          appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

11          “(2) When the standard of care requires a change in the diagnosis, act, or omission  
12          that constitutes the negligent act described in paragraph (1), including, but not limited to, a  
13          reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs  
14          from the applicable standard of care, each departure constitutes a separate and distinct  
15          breach of the standard of care.

16          “...”

17          5. Unprofessional conduct under Business and Professions Code section 2234 is conduct  
18          which breaches the rules or ethical code of the medical profession, or conduct which is  
19          unbecoming a member in good standing of the medical profession, and which demonstrates an  
20          unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,  
21          575.)

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## **FIRST CAUSE FOR DISCIPLINE**

### **(Repeated Negligent Acts)**

6. Respondent has subjected his Physician's and Surgeon's Certificate No. A 49419 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent acts in his care and treatment of Patient A<sup>1</sup>, as more particularly alleged herein:

## Patient A

7. Patient A is a member of Respondent's family. Between November 2011<sup>2</sup> through December 2017, Respondent prescribed the following controlled substances to Patient A:

Filled	Drug Name	Quantity	Prescriber
11-11-11	Alprazolam <sup>3</sup> 0.25 mg	40	Respondent
1-1-12	Alprazolam 0.25 mg	40	Respondent
2-13-12	Xanax 0.25 mg	30	Respondent
4-20-12	Ambien <sup>4</sup> 5 mg	60	Respondent
6-13-12	Alprazolam 0.25 mg	80	Respondent

<sup>1</sup> References to Patient A are used to protect patient privacy.

<sup>2</sup> Conduct occurring more than seven (7) years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

<sup>3</sup> Xanax® (alprazolam), a benzodiazepine, is a centrally acting hypnotic-sedative that is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the management of anxiety disorders. Concomitant use of Xanax® with opioids “may result in profound sedation, respiratory depression, coma, and death.” The Drug Enforcement Administration (DEA) has identified benzodiazepines, such as Xanax®, as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

<sup>4</sup> Zolpidem Tartrate (Ambien®), a centrally acting hypnotic-sedative, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the short-term treatment of insomnia characterized by difficulties with sleep initiation.

Filled	Drug Name	Quantity	Prescriber
8-31-12	Acetaminophen- Codeine Phosphate <sup>5</sup> 300 mg – 60 mg	40	Respondent
9-6-12	Alprazolam 0.25 mg	80	Respondent
12-21-12	Zolpidem Tartrate 10 mg	40	Respondent
12-21-12	Alprazolam 0.25 mg	80	Respondent
5-8-13	Alprazolam 0.25 mg	80	Respondent
5-8-14	Alprazolam 0.25 mg	30	Respondent
5-8-14	Zolpidem Tartrate 5 mg	20	Respondent
7-18-14	Zolpidem Tartrate 5 mg	20	Respondent
11-13-14	Xanax 0.25 mg	20	Respondent
10-20-16	Zolpidem Tartrate 10 mg	15	Respondent
9-6-17	Alprazolam 0.25 mg	30	Respondent
12-31-17	Alprazolam 0.25 mg	40	Respondent

8. Respondent did not prescribe any of the above controlled substances to Patient A, as a result of a medical emergency.

9. Respondent committed repeated negligent acts in his care and treatment of Patient A, which included, but was not limited to, the following:

(a) Paragraphs 7 through 8, above, are hereby incorporated by reference and realleged as if fully set forth herein;

(b) On or about June 13, 2012, Respondent prescribed Alprazolam to Patient A, in the absence of a medical emergency;

(c) On or about August 31, 2012, Respondent prescribed Acetaminophen-Codeine to Patient A, in the absence of a medical emergency;

(d) On or about September 6, 2012, Respondent prescribed Alprazolam to Patient A, in the absence of a medical emergency;

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<sup>5</sup> This combination medication is used to help relieve mild to moderate pain. It contains an opioid, Codeine, and a non-opioid (acetaminophen). Codeine is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(G), and a dangerous drug pursuant to Business and Professions Code section 4022.

(e) On or about December 21, 2012, Respondent prescribed Zolpidem Tartrate to Patient A, in the absence of a medical emergency;

(f) On or about December 21, 2012, Respondent prescribed Alprazolam to Patient A, in the absence of a medical emergency;

(g) On or about May 8, 2013, Respondent prescribed Alprazolam to Patient A, in the absence of a medical emergency;

(h) On or about May 8, 2014, Respondent prescribed Alprazolam to Patient A, in the absence of a medical emergency;

(i) On or about May 8, 2014, Respondent prescribed Zolpidem Tartrate to Patient A, in the absence of a medical emergency;

(j) On or about July 18, 2014, Respondent prescribed Zolpidem Tartrate to Patient A, in the absence of a medical emergency;

(k) On or about November 13, 2014, Respondent prescribed Xanax to Patient A, in the absence of a medical emergency;

(l) On or about October 20, 2016, Respondent prescribed Zolpidem Tartrate to Patient A, in the absence of a medical emergency;

(m) On or about September 6, 2017, Respondent prescribed Alprazolam to Patient A, in the absence of a medical emergency; and

(n) On or about December 31, 2017, Respondent prescribed Alprazolam to Patient A, in the absence of a medical emergency.

## **SECOND CAUSE FOR DISCIPLINE**

## **(General Unprofessional Conduct)**

10. Respondent has further subjected his Physician's and Surgeon's Certificate No. A 49419 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine, as more particularly alleged in paragraphs 7 through 9, above, which are hereby incorporated by reference as if fully set forth herein.

## PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 49419, issued to Grant Barrie Neifeld, M.D.;
  2. Revoking, suspending or denying approval of Grant Barrie Neifeld, M.D.'s authority to supervise physician assistants and advanced practice nurses;
  3. Ordering Grant Barrie Neifeld, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
  4. Taking such other and further action as deemed necessary and proper.

DATED:  
June 10, 2019

KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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